

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on July 15, 2011 has been entered.

2. This Office action is in response to Applicant's amendments and remarks filed July 15, 2011. Applicant has cancelled claims 41-71. New claims 72-102 have been added. Currently, claims 72-102 remain pending in the application.

3. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 20081204, 20090614, 20090824 & 20100520.

4. The rejection of claims 41-71 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dubowoj, DE 19937813, is withdrawn in view of applicant's amendments and remarks. Specifically, claims 41-71 have been cancelled.

## **NEW GROUNDS OF REJECTION**

### ***Claim Objections***

5. Claim 99 is objected to because of the following informalities: In instant claim 99, the phrase “at from 12% to 16%% by weight” should be amended to recite “from 12% to 16% by weight” for grammatical purposes. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 72-102 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dubowoj, DE 19937813.

Dubowoj, DE 19937813, discloses an aqueous hair washing composition that is gel-forming and transparent, wherein the composition contains 2.5-50% by weight of surfactants, 0.25-10% by weight of an acrylate terpolymer, and adjunct ingredients, such as visible particles (see attached English abstract translation). Specifically, note Example 1, which contains 10% by weight of a sulfosuccinate surfactant, 4% by weight of an ether sulfate surfactant, 4% by weight of an alkylglucoside, 2% by weight of sodium lauroyl glutamate, 3% by weight of an acrylate terpolymer, 2% by weight of PEG-40 hydrogenated castor oil, and adjunct ingredients, wherein the pH of the composition is 6, per the requirements of the instant invention. Also not page 5, lines 58-59, wherein Dubowoj discloses that the composition may have a pH of 5-8.5. Although Dubowoj is silent with respect to the transmission value, yield point, and tan delta of their composition, the examiner asserts that the compositions disclosed in Dubowoj would inherently meet the transmission value, yield point, and tan delta requirements of the instant invention, since the compositions disclosed in Dubowoj contain all of the required components in the amounts required in the instant claims, absent a showing otherwise. Therefore, instant claims 72-102 are anticipated by Dubowoj, DE 19937813.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce

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the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

9. Claims 95-98 and 100-102 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Strassner et al, DE 10147049.

Strassner et al, DE 10147049, discloses a detergent composition comprising 0.5-1.0% by weight of sodium cocoyl glutamate, 0.5% by weight of decyl glucoside, 1.5% by weight of lauryl ether sulfate, 1.3% by weight of an acrylate crosspolymer, 1% by weight of PEG-40 hydrogenated castor oil, water, and adjunct ingredients (see Examples 1-5), per the requirements of the instant invention. Although Strassner et al is silent with respect to the transmission value, yield point, and tan delta of their composition, the examiner asserts that the compositions disclosed in Strassner et al would inherently meet the transmission value, yield point, and tan delta requirements of the instant invention, since the compositions disclosed in Strassner et al contain all of the required components in the amounts required in the instant claims, absent a showing otherwise. Therefore, instant claims 95-98 and 100-102 are anticipated by Strassner et al, DE 10147049.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN P. MRUK whose telephone number is (571)272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN P MRUK/  
Primary Examiner, Art Unit 1761

Brian P Mruk  
November 2, 2011

BRIAN P MRUK  
Primary Examiner  
Art Unit 1761